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February 24, 1951
Op. No. 51-62

Dr. R. K. Trueblood
Secretary, Arizona State
Dental Board
25 North Second Avenue
Glendale, Arizona

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ARIZONA ATTORNEY GENERAL

Dear Dr. Trueblood:

We have your letter of February 2, in which you request our opinion on the following:

"Is any one under the dental code allowed to take dental X-Rays except a licensed dentist."

We assume that your question relates only to the actual taking of the X-ray picture, and not to the use of an X-ray machine for diagnostic or other purposes, and that it does not extend to the use of such pictures after once taken.

The Dental Act of 1935, as amended, grants no specific authority for the taking of X-rays, even by a licensed dentist. Our statutes do not require the licensing of a person who merely takes an X-ray picture as such.

The problem of determining what persons are allowed under the Dental Act to take dental X-rays must therefore be approached from the standpoint of what persons, if any, are prohibited by said act from taking such X-rays. The Dental Act prohibits the practice of dentistry by any person not licensed to do so (Section 67-904 ACA 1939) and further provides for revocation of the license of any dentist who employs an unlicensed person to perform such work. (Section 67-920 (6) 4 ACA 1939). The ultimate question which must be answered is whether the taking of dental X-rays amounts to the practice of dentistry, which is defined in the Act as:

"Who deemed to be practicing dentistry.--
A person shall be deemed to be practicing
dentistry who, by himself or by an agent,
employee, servant, or contractor, and,
with specific reference and application
to the teeth, gums, jaws, oral cavity, or
tissues adjacent thereto, in living per-
sons, shall do or propose, agree, or
attempt to do, or make an examination or
give an estimate of cost with intent to:
(a) Perform an operation or administer
an anesthetic in connection therewith;
(b) Diagnose or treat any condition,
disease, or lesion;
(c) Take an impression;
(d) Correct a malposition;
(e) Treat a fracture;
(f) Remove calcareous deposits;
(g) Replace missing anatomy with an
artificial substitute;
(h) Construct, make, alter, or repair
an artificial substitute or restorative
or corrective appliance;
(i) Do any other remedial, corrective,
or restorative work." (Section 67-903
ACA 1939, Supplement) (Emphasis supplied)

Under the assumptions stated above, the person who merely takes an X-ray picture does not fall within the definition of practice of dentistry just quoted; he has not proposed, agreed or attempted to do any of the acts enumerated in subsections (a) through (i) of Section 67-903, supra, nor has he made an examination or an estimate of cost with intent to do any of such acts. His act merely provides the basis upon which another person may predicate an act which amounts to the practice of dentistry.

It is, therefore, our opinion that the act of taking X-ray pictures is not in itself the practice of dentistry, and that the Dental Act of 1935, as amended:

1. Does not prohibit a person, not licensed to practice dentistry or dental hygiene, from merely taking X-ray pictures, even though such pictures are taken to be used by licensed persons in the practice of dentistry or dental hygiene.

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2. Does not prohibit the employment by a licensed dentist of an X-ray operator, not licensed to practice dentistry or dental hygiene, for the purpose of merely taking X-ray pictures, even though such pictures are taken to be used by a licensed person in the practice of dentistry or dental hygiene.

It must be emphasized that the foregoing opinion does not extend to any person who performs or proposes to perform, or attempts to perform any act in addition to the acts necessarily incident to the actual picture-taking process. Trusting this will be of some assistance, we are

Very truly yours,

FRED O. WILSON
Attorney General

WILBERT E. DOLPH, JR.
Assistant Attorney General

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